



GOVERNMENT OF THE VIRGIN ISLANDS OF THE UNITED STATES

DEPARTMENT OF PLANNING AND NATURAL RESOURCES

DIVISION OF ENVIRONMENTAL PROTECTION

8100 Lindberg Bay, Ste. #61

Cyril E. King Airport, Terminal Building, Second Floor

ST. THOMAS, VI 00802

PHONE: (340) 774-3320, FAX: (340) 714-9549

This Territorial Pollutant Discharge Elimination System (TPDES) permit is issued in compliance with 12 V.I. CODE ANN. § 185 in accordance with the provisions of the Federal Water Pollution Control Act, as amended, (33 USC 1251 et seq.) (hereinafter referred to as "The Act").

MARKET SQUARE EAST, INC. (herein referred to as the Permittee)

1-2 Estate Donoe

St. Thomas, VI 00802

The Permittee is authorized to discharge from a facility located at the above address, to the receiving waters listed in the table below, in accordance with effluent limitations and monitoring requirements and other conditions set forth in parts I and II hereof, including the collection system(s) internal outfalls.

BEST PROFESSIONAL JUDGMENT (BPJ) CATEGORY - DAS	CONDOMINIUMS/ HOTELS/ RESORTS/ MARINAS (STT-STJ) Mandal Bay Subwatershed	WWTF MINOR TPDES Permit
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TPDES Permit No.	Wastewater Process and/or Product	Daily Maximum	Monthly Average	Primary Disinfection	RECEIVING WATERS(s)
VI0040746					
001 FLOW (MGD)	Secondary Treatment	0.010	0.00194	Chlorination	Irrigation system

This permit shall become effective on July 1, 2008 and authorization to discharge expires June 30, 2013.


Robert Mathes
Commissioner

6/18/08
Date

Ken

WWTF

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During the period beginning on the effective date of the permit and lasting through the expiration date of the permit, the Permittee is authorized to discharge from outfall serial number 001 (treated wastewater) including its collection systems, outfall(s) (oil/water separators, grease trap systems for onsite restaurants and laundries with one or more pairs of washers and dryers. All such discharges shall be limited and monitored by this permittee as specified below.

Receiving Water Classification: B (BPJ)

REQUIRED EFFLUENT LIMITATIONS-TABLE 1 A

Effluent Characteristic	DISCHARGE CONCENTRATIONS LIMITATIONS			MEASUREMENT FREQUENCY	SAMPLE TYPE
	DAILY MAX.	PERCENT REMOVAL	MONTHLY AVERAGE		
Temp (°C)	32	N/A	N/A	DAILY	Grab or Cont.
001 FLOW (MGD)	SEE COVER PAGE*	N/A	SEE COVER PAGE*	Continuous	Continuous
pH	6 to 8.3	N/A	N/A	DAILY	Grab or Cont.
BOD ₅ (mg./l.)	N/A	85	30	QUARTERLY	24-hour Composite
TSS (mg/l)	N/A	85	30	QUARTERLY	24-hour Composite
Fecal Coliform (#/100ml)	N/A	N/A	70**	QUARTERLY	2 Grabs, 6 hrs apart
Residual Chlorine (ppm)	1***	N/A	N/A	QUARTERLY	Grab
Oil & Grease	Non-detect	N/A	N/A	QUARTERLY	Grab

Samples collected in compliance with the monitoring requirements specified above shall be taken at any point after the treatment process has commenced but prior to being discharged into the receiving waters. To determine any percent removal of BOD₅ or TSS, the influent must be sampled after the bar screen. Compliance sampling points must be labeled. **Bacteria shall not exceed a geometric (log) mean of 70 fecal coliforms per 100 ml. by MF or MPN count. *** Residual Chlorine limit for recycled effluent is 2ppm.

SPECIAL CONDITIONS - WWTF-DAS

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Part I

Special conditions are hereby incorporated into this permit in order to satisfy the provisions Title 12 of the Virgin Islands Code, Chapter 7, Section 185 (f) (1981), and Section 301 (b) (1) (C) of the Federal Clean Water Act (PL 95-217). As part of the administration of the Territorial Pollutant Discharge Elimination System (TPDES), the TPDES Permit Administrator is the primary permit writer and reviewer of inspection reports. Further, a TPDES Permit Compliance Evaluation Inspector (TPDES CEI Inspector) will conduct routine and follow-up inspections for this facility and report subsequent findings to the U.S. Environmental Protection Agency (EPA) and the TPDES Permit Administrator. The TPDES Permit Administrator and CEI Inspector are the authorized representatives of the Commissioner of DPNR for the sole purpose of insuring the following special conditions:

1. This permit is for a five year period. Within that period, the permittee is required to report any management changes by submitting an updated EPA Form 1. An annual re-certification must be performed if there are any management changes at the permittee's facility. This annual re-certification must occur thirty (30) days prior to the anniversary of the effective date of the permit and on the same date each year by submitting an updated EPA Form 1. The EPA Form 1 must be accompanied by a cover letter on official stationery, addressed to the TPDES Permit Administrator, certifying that it's current general manager, director of engineering, condominium association president and/or certified plant operator have read and understood all parts and special conditions of this permit (see Part II (B) 11 (a) & (c) for "Signatory requirements"). Certification Letters serve to inform the Division of Environmental Protection (DEP) of any changes in management. DEP must be informed of any interim management changes or changes in the plant operator.

The permittee has a "Duty to Comply" subject to fines during that permitting cycle, and a "Duty to Reapply" at least 180 days prior (about 6-months) to the permit's expiration date, pursuant to Part II (B) 1&2 of this permit. The renewal application, EPA Form 2C, must be completed at that time pursuant to 40 CFR 122.21(e). Therefore, it is recommended, but not required, that the permittee request an application meeting at least 60 days earlier. An application fee may apply at that time, in accordance with 12 V.I. R. & REGS. § 184-26, pursuant to 12 V.I. CODE ANN. § 184 (a) and (p) and (q) (1976).

Annually, the manager, operator or contact person must attend a mandatory Regulatory Question & Answer Meeting with the TPDES Permit Administrator. During that meeting, the permittee must, if applicable, provide proof of current applicable permits for waste oil, standby generators, boilers, well appropriation and an approved spill prevention plan or terminal facilities license.

2. Prior to Compliance Evaluation Inspections (CEIs), the permittee or designated representative must review the following sections of this permit: "Monitoring and Records" Part II (B) 10 (b)&(c); "Inspection and Entry" Part II (B) 9 (d); and "Proper Operation and Maintenance" Part II (B) 5. At a minimum, flow meters must also be installed at the labeled sampling points for the influent and treated effluent. Composite samplers may be provided for (through a certified laboratory or independently) at the labeled influent and effluent sampling points for the wastewater treatment plant. Discharge Monitoring Reports (DMRs) and logbook records must be presented for applicable permit limits, instrument calibration, and equipment maintenance including standby generators. A calibration and maintenance schedule must be provided. A filter or system backwash schedule is required for seawater intakes. All logbooks must contain time, date and signatures. Used oil must be labeled. Further, a demonstration of any standard operating procedure may also be required. This permit is subject to modification based on violations of permit conditions including any interim schedule of compliance, pursuant to 12 V.I. CODE ANN. § 185 (f) 2 (A) and (i) (2000). The Permit Administrator, CEI Inspector or any other DEP officer, may conduct additional follow-up inspections each quarter to ascertain compliance. A non-compliance corrective action plan may be required within 30 days of written notification of deficiencies discovered during these inspections. This permit, including all pages, must be prominently displayed onsite at the wastewater treatment plants.

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Part I

3. Sludge, oil and grease generated by the permittee shall be disposed of in a manner that complies with applicable regulations for the control of hazardous and non-hazardous wastes. The collection system must be free of oil & grease, and the influx of detergents must be minimized. All sludge originating at this facility that will be taken to the landfill by a sludge hauler must be free of liquids and tested for residual pathogens to meet or exceed Class A standards for sludge, pursuant to 40 CFR 503.4 & 40 CFR 258 and in accordance with 40 CFR 503.32. Pathogen (Class A) standards for coliform density in sewage sludge are set at less than 1000 Most Probable Number (MPN) per gram of total dry solids or salmonella of less than 3 MPN.

A pre-numbered logbook shall be kept on the premises and maintained by the permittee with information recorded in indelible ink, for the waste materials removed from the wastewater treatment system, kitchen grease traps or interceptors (if applicable), driveway oil/water separators and designated laundry facilities (if applicable). Each entry shall detail the following items: a.) removed material with date, b.) approximate volume or weight, c.) method of removal and transport, d.) final disposal and location, and e.) person that offered service. The service provider is responsible to the permittee and in turn, the permittee is responsible to DPNR.

4. This permit may be transferred to a new owner if the current permittee notifies the TPDES Permit Administrator, thirty (30) days prior to the transfer date of its intent. The notification must contain a cover letter on official stationery, with a copy of the written agreement between the old and new owner on the terms of the transfer (operational control, responsibility, coverage and liability), along with EPA Form 1 completed by the new owner. This is subject to DPNR Commissioner's modification or revocation of the permit, pursuant to 40 CFR 122.63 (d). The new owners must also independently certify that they have read and understood the permit and all special conditions.

5. In the event of leaks, spills or overflows at this permitted facility, the following individuals must be included in any and all notifications:

Wayne Donadelle, Environmental Specialist, TPDES CEI Inspector at 774-3320 extension 5156,
David Alvaro Simon, Environmental Engineer III, TPDES Permit Administrator at ext. 5148 and
Jim Casey, EPA/CEPD, VI Coordinator at 714-2333.

B. MONITORING AND REPORTING REQUIREMENTS

1. Monitoring and records. See Part II.B.10.

2. Discharge Monitoring Reports.

a. See Part II.B.12.d.

b. Monitoring results obtained during the previous month shall be summarized and reported on a Discharge Monitoring Report Form (EPA No. 3320_1), postmarked no later than the 28th day of the month following the completed reporting period. The first report is due on the effective date of the permit (EDP) +28 days. Duplicate signed copies of these, and all other reports required herein, shall be submitted to the Regional Administrator and to the Commissioner of DPNR/DEP at the following addresses:

Regional Administrator
USEPA Region II
290 Broadway
New York, NY 10007-1866
Attn: Permits Admin. Branch

Commissioner
Dept. of Planning & Natural Resources
8100 Lindberg Bay, Ste. #61
Cyril E. King Airport, Terminal Bldg, 2nd Fl.
St. Thomas, V.I. 00802
Attn: Director, Division of
Environmental Protection

3. Quality assurance practices. The Permittee is required to show the validity of all data by requiring its laboratory to adhere to the following minimum quality assurance practices:

a. Duplicate¹ and spiked² samples must be run for each constituent analyzed for permit compliance on 5% of the samples, or at least on one (1) sample per month, whichever is greater. If analysis frequency is less than one (1) sample per month, duplicate and spiked samples must be run for each analysis.

b. For spiked samples, a known amount of each constituent is to be added to the discharge sample. The amount of constituent added should be approximately the same amount present in the unspiked sample, or must be approximately that stated as maximum or average in the discharge permit.

c. The data obtained in 3. a. above shall be summarized in an annual report submitted at the end of the fourth quarter of reporting in terms of precision, percent recovery, and the number of duplicate and spiked samples run.

d. Precision for each parameter shall be calculated by the formula, standard deviation $s = (\sum D^2/2K)^{1/2}$, where "D" is the difference between duplicate results, and "K" is the number of duplicate pairs used in the calculation.

e. Percent recovery for each parameter shall be calculated by the formula $R = 100 (F - I)/A$, where "F" is the analytical result of the spiked sample, and "I" is the result before spiking the sample, and "A" is the amount of constituent added to the sample.

¹ Duplicate samples are not required for the following parameters: Color, Temperature, Turbidity.

² Spiked samples are not required for the following parameters listed in Table 1 of 40 CFR 136: Acidity, Alkalinity, Bacteriological, Benzidine, Chlorine, Color, Dissolved Oxygen, Hardness, pH, Oil & Grease, Radiological, Residues, Temperature, Turbidity. Procedures for spiking samples and spiked sample requirements for parameters not listed on the above referenced table are available through EPA's Regional Quality Assurance Coordinator.

- f. The percent recovery, "R", for each parameter in 3. e. above shall be summarized yearly in terms of mean percent recovery and standard deviation from the mean. The formula, $s = [\sum(x - \bar{x})^2 / (n - 1)]^{1/2}$, where "s" is the standard deviation around the mean " \bar{x} ", "x" is an individual recovery value, and "n" is the number of data points which shall be applied.
- g. The Permittee or his contract laboratory is required to annually analyze an external quality control reference sample for each pollutant. These are available through the Regional Quality Assurance Coordinator, Region II, U.S. Environmental Protection Agency, Edison Environmental Laboratory, Edison, New Jersey 08817.
- h. The Permittee and/or his contract laboratory is required to maintain records of the specific analytical methods used, including options employed, if any, within a particular method, and of reagent standardization and equipment calibration operations.
- i. If a contract laboratory is utilized, the Permittee shall submit the name and address of the laboratory and the parameters analyzed at the time it submits its discharge monitoring reports (see Section B.2.b. above). Any change in the contract laboratory being used or the parameters analyzed shall be reported prior to or together with the monitoring report covering the period during which the change was made.

C. OTHER REQUIREMENTS

- 1. N/A.
- 2. Notice of Change in Sludge Disposal Practice.
 - a. The Permittee shall give prior notice to the Commissioner of planned changes in the Permittee's sludge disposal practice.
- 3. N/A.
- 4. Alterations. There are material and substantial changes or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.
- 5. Monitoring.
 - a. N/A.
 - b. The Permittee shall provide EPA and DPNR with sludge inventory data as part of EPA and DPNR sludge inventory updates.
 - c. N/A.
- 6. Twenty four-hour reporting.
 - a. The Permittee must report violations of maximum daily discharge limitations in accordance with the reporting requirements set forth in Part II.B.12.f. (twenty-four (24) hour reporting followed by five (5) day written submission).
- 7. Additional reporting requirements. The Permittee shall notify the Regional Administrator and Commissioner as soon as it knows or has reason to believe:
 - a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - (1) One hundred micrograms per liter (100 $\mu\text{g/l}$); or

- (2) Two hundred micrograms per liter (200 μ g/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 μ g/l) for 2,4_dinitrophenol and for 2_methyl_4,6_dinitrophenol; and one milligram per liter (1 mg/l) for antimony; or
 - (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
 - (4) The notification level, if any, established by the Commissioner in the permit.
- b. That any activity has occurred or will occur which would result in any discharge, on a non_routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
- (1) Five hundred micrograms per liter (500 μ g/l); or
 - (2) One milligram per liter (1 mg/l) for antimony; or
 - (3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
 - (4) The notification level, if any, established by the Commissioner in the permit.
- c. *Compliance Schedule: N/A*

DEFINITIONS

1. "Average monthly discharge limitation" means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
2. "Average weekly discharge limitations" means the highest allowable average of "daily discharges" over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.
3. "Bypass" means the intentional diversion of wastes from any portion of a treatment facility.
4. "Composite" means a combination of individual (or continuously taken) samples obtained at regular intervals over the entire discharge day. The volume of each sample shall be proportional to the discharge flow rate. For a continuous discharge, a minimum of twenty-four (24) individual grab samples (at hourly intervals) shall be collected and combined to constitute a 24_hour composite sample. For intermittent discharges of more than four (4) hours duration, grab samples shall be taken at a minimum of thirty (30) minute intervals.
5. "Commissioner" means the Commissioner of the Department of Planning and Natural Resources or his duly authorized representative.
6. "Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24_hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharge over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of pollutant over the day. For purposes of sampling, "daily" means an operating day or 24_hour period.
7. "Discharge Monitoring Report" or "DMR" means the EPA uniform national form, including any subsequent additions, revisions, or modifications, for reporting of self monitoring results by Permittees.
8. "Grab" means an individual sample collected in less than fifteen (15) minutes.
9. "Gross" means the weight or concentration contained in the discharge. (Unless a limitation is specified as a net limitation, the limitation contained in this permit is a gross limitation).
10. "Maximum daily discharge limitation" means the highest allowable "daily discharge".
11. "Monthly" means one day each month (the same day each month) and a normal operating day (e.g., the 2nd Tuesday of each month).
12. "Net" means the amount of a pollutant contained in the discharge measured in appropriate units as specified herein, less the amount contained in the surface water body intake source, measured in the same units, over the same period of time, provided:
 - a. The intake water source must be drawn from the same body of water into which the discharge is made; and
 - b. In cases where the surface water body intake source is pretreated for the removal of pollutants, the intake level of a pollutant to be used in calculating the net is that level contained after the pretreatment steps.

13. "Regional Administrator" means the Regional Administrator of Region II of EPA or the authorized representative of the Regional Administrator.
14. "Severe property damage" means that substantial physical damage to the treatment facilities which would cause them to become inoperable or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
15. "Toxic pollutant" means any of the pollutants listed in 40 C.F.R. 401.15 (45 F.R. 44503, July 30, 1979) and any modification to that list in accordance with Section 307(a)(1) of the Clean Water Act.
16. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
17. "Weekly" means every seventh day (the same day of each week) and a normal operating day.
18. "TPDES Permit Administrator" means the author of this permit.

B. GENERAL CONDITIONS**1. Duty to Comply**

- a. The Permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Environmental Laws and Regulations of the Virgin Islands and Federal Clean Water Act and is ground for enforcement action; for permit termination, revocation and reissuance, or modification; or the denial of a permit renewal application.
- b. The Permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Federal Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not been modified to incorporate the requirement.
- c.
 - (1) Title 12, Section 190 of the Virgin Islands Code, Water Pollution Control Act provides that any person who violates any permit condition is subject to a civil penalty not to exceed \$50,000 per day of violation. Any person who willfully or negligently discharges pollutants in violation of any condition or limitation included in a permit; or violates requirements of 12 V.I.C. Section 189; or with respect to introductions of pollutants into publicly owned treatment works, violates a pretreatment standard or toxic effluent standard, shall upon conviction, be punished by a fine not less than \$5,000 per day of violation. If the conviction is for a violation committed after a first conviction of the person under this subsection, punishment is by a fine of not more than \$100,000 per day of violation. Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other documents filed or required to be maintained under this chapter or by any permit, rule, regulation or order issued under the Act, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than six (6) months or both.
 - (2) The Clean Water Act, Section 309(c) provides that any person who violates a permit condition implementing Section 301, 302, 306, 308, 318, or 405 of the Clean Water Act is subject to civil and criminal penalties which in several of its provisions exceed those imposed under the Virgin Islands Water Pollution Control Act.

2. **Duty to Reapply.** This permit and the authorization to discharge shall terminate on the expiration date indicated on the first page. In order to receive authorization to discharge after the expiration date of this permit, the Permittee must file for reissuance at least one hundred and eighty (180) days prior to the permit's expiration.
3. **Need to Halt or Reduce not a Defense.** It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
4. **Duty to Mitigate.** The Permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
5. **Proper Operation and Maintenance.** The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this permit. Proper

operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back_up or auxiliary facilities or similar systems, installed by the Permittee, when the operation is necessary to achieve compliance with the conditions of the permit.

6. Permit Actions.

- a. This permit may be modified, revoked and reissued, or terminated during its term for cause. The filing of a request by the Permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- b. Causes for modification, revocation and reissuance, and termination are set forth in 40 C.F.R. 122.62 and 122.64, and 185(i) and 12 V.I.R.&R. Subsection 184_34(c) and 184_51.
 - (1) Specified causes for modification, revocation and reissuance, and termination include:
 - (a) Noncompliance by the Permittee with any condition of the permit;
 - (b) The Permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the Permittee's misrepresentation of any relevant facts at any time;
 - (c) A determination that the permitted discharge endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
 - (d) There is a change in any condition that requires either a temporary or a permanent reduction or elimination of any discharge controlled by the permit.
 - (2) Specified causes for modification and, upon request or agreement of the Permittee, revocation and reissuance of the permit include material and substantial alterations or additions to the Permittee's operation which occurred after permit issuance and which justify the application of permit conditions that are different or absent from this permit, (e.g., production changes, relocation or combination of discharge points, changes in the nature or mix of products produced) provided the reconstruction activities do not cause the new source permit issuance provisions of 40 C.F.R. 122.29 to be applicable.
 - c. With the exception of permit modifications which satisfy the criteria in 40 C.F.R. 122.63 and V.I.R.&R. Section 184_51(c) for "minor modifications" the applicable procedures required by 40 C.F.R. Part 124 and 12 V.I.C. Section 188(c) shall be followed before this permit is modified, revoked, reissued or terminated. Notice and opportunity for hearing are as provided under T. 12 V.I.C. Sections 188 (b) and (c).

7. Property rights. The issuance of this permit does not convey any property rights or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, or any infringement of Virgin Islands laws or regulations.

8. Duty to provide information. The Permittee shall furnish to the Commissioner within a reasonable time, any information which the Commissioner may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with

this permit. The Permittee shall also furnish to the Commissioner, upon request, copies of records required to be kept by this permit.

9. Inspection and Entry. The Permittee shall allow the Regional Administrator, the Commissioner, or any other authorized representative(s), upon the presentation of credentials and other documents as may be required by law, to:

- a. Enter upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Environmental Laws and Regulations of the Virgin Islands and the Clean Water Act, any substances or parameters at any location.

10. Monitoring and Records.

- a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- b. The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, for a period of at least three (3) years from the date of the sample, measurement report or application. This period may be extended by request of the Commissioner at any time.
- c. Records of monitoring information shall be recorded with indelible ink in a bound log book with pre-numbered pages and shall include:
 - (1) The date, exact place, and time of sampling or measurement;
 - (2) The individual(s) who performed the sampling or measurements;
 - (3) The date(s) analyses were performed;
 - (4) The individual(s) who performed the analyses;
 - (5) The analytical techniques or methods used;
 - (6) The quality assurance information specified in Part I of this permit; and
 - (7) The results of such analyses.
- d. Monitoring shall be conducted according to test procedures approved under 40 CFR, Part 136.
- e. The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall upon conviction, under the Virgin Islands Water Pollution Control Act be punished by a fine of not more than \$10,000, or by

imprisonment for not more than six (6) months, or by both, or under the Clean Water Act be fined not more than \$10,000 or imprisoned for not more than two (2) years.

11. Signatory requirements.

- a. All permit applications shall be signed as follows:
- (1) For a municipality, State, Federal or other public agency, by either a principal executive officer or ranking elected official, or other duly authorized employee.
 - (2) In any other case, by the individual duly authorized to act, as evidenced by documentation acceptable to the Commissioner.
- b. All reports required by this permit, and other information requested by the Regional Administrator or Commissioner of DPNR pursuant to the terms of this permit, including DMRs and reports of noncompliance, shall be signed as follows:
- (1) By a person described in subsection a, or by a duly authorized representative of that person.
 - (2) A person is a duly authorized representative only if:
 - (a) The authorization is made in writing by a person described in subsection a.;
 - (b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company.
 - (c) The written authorization is submitted to the:
Regional Administrator, as noted in Part I., section B.
 - (3) If a written authorization pursuant to subsection 11. b. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph 11. b. must be submitted to the Regional Administrator and the Commissioner of DPNR prior to or together with any reports or information to be signed by an authorized representative.

- c. Certification. Any person signing a document under subsection a. or b. shall make the following certification:

"I certify under penalty of the law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

12. Reporting Requirements

a. **Planned changes.** The Permittee shall give notice to the Regional Administrator and Commissioner of DPNR as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a "new source" in 40 CFR, Part 122.29(b); or
- (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification requirement applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Part I.C.7, above.

b. **Anticipated noncompliance.** The Permittee shall give advance notice to the Regional Administrator and the Commissioner of DPNR of any planned changes in the facility or activity which may result in noncompliance with permit requirements as soon as it becomes aware of the circumstances.

c. **Transfers**

(1) This permit is not transferable to any person except after notice to the Regional Administrator and the Commissioner of DPNR. Except as provided in paragraph c.(2) below, a permit may be transferred by the existing Permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new Permittee and incorporate such other requirements as may be necessary under the Clean Water Act.

(2) This permit may be automatically transferred to a new Permittee if:

- (a) The existing Permittee notifies the Regional Administrator and the Commissioner of DPNR at least thirty (30) days in advance of the proposed transfer date in subparagraph (b);
- (b) The notice contains a written agreement between the existing and new Permittee containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
- (c) The Commissioner does not notify the existing Permittee and the proposed new Permittee of his or her intent to modify or revoke and reissue the permit. (A modification under this paragraph may also be a minor modification under 40 CFR, Part 122.63.) If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in subparagraph (b).

(3) If this permit is automatically transferred in accordance with the provisions of paragraph (2), the permit may be modified to reflect the automatic transfer after its effective date.

d. **Monitoring Reports.**

- (1) Monitoring results shall be reported at the intervals specified in Part I of this permit.
- (2) Monitoring results shall be reported on a Discharge Monitoring Report (DMR).

- (3) If the Permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.
 - (4) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in the permit.
- e. Compliance Schedules. Reports of compliance or noncompliance with, or any progress reports on, interim or final requirements contained in any compliance schedule of this permit shall be submitted no later than fourteen (14) days following each schedule date.
- f. Twenty-four hour reporting.

- (1) The following information shall be reported orally to the Regional Administrator at (212) 267-5000, the US EPA VI Coordinator's Office at (340) 714-2333 and the Commissioner of DPNR at (340) 774-3320 as soon as possible and at least within twenty-four (24) hours from the time the Permittee becomes aware of the circumstances:
 - (a) Any noncompliance which may endanger health or the environment;
 - (b) Any unanticipated bypass (see 13 below) which violates any effluent limitation in the permit;
 - (c) Any upset (see 14 below) which violates any effluent limit in the permit; or
 - (d) The violation of a maximum daily discharge limitation for any of the pollutants listed in Part I of this permit is required to be reported within twenty-four (24) hours. This list includes any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance.
- (2) In addition to the oral twenty-four (24) hour report, the Permittee shall also provide a written submission to the Regional Administrator, the US EPA VI Coordinator, and the Commissioner of DPNR within five (5) days of the time the Permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact times and dates, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (3) Except with respect to written reports required under paragraph (1)(a) of subsection f. above, the Commissioner may waive the written report on a case by case basis if the oral report has been received within twenty-four (24) hours.

g. Public notification.

- (1) The Permittee shall, in the event of a sewage bypass or upset with a duration of more than eight [8] hours:

- (a) Furnish a copy of the notice of potential health risk, to a radio station serving the area affected as soon as possible, but in no event later than twenty-four [24] hours following the violation.
- (b) Furnish a copy of the notice of potential health risk, to a television station serving the area affected as soon as possible, but in no event later than twenty-four [24] hours following the violation.
- (c) Submit for publication a notice of potential health risk in a newspaper of general circulation in the area affected, as soon as possible, but in no event later than twenty-four [24] hours following the violation and continue daily publication for as long as the violation exists.
- (d) Post a sign(s) in a conspicuous place in the area affected that will warn the public of the potential health risk, as soon as possible, but in no event later than twenty-four [24] hours following the violation. Posting shall continue for as long as the potential risk to health exists.
- (e) In the event of a continuing sewage bypass lasting greater than forty-eight [48] hours, public notice shall be updated and reissued as outlined in (a), (b), and (c) above and every twenty four [24] hours of sewage bypassing thereafter.
- (e) At the end of a continuing bypass lasting greater than eight [8] hours, public notice shall be issued by means of the same media listed in (a), (b), and (c) above, informing the public of the end of the bypass and the extent of remaining health risks, if any.

(2) The Permittee shall, in the event of an anticipated sewage bypass or upset, with a duration expected to last more than eight [8] hours, give the public notification, at least, one day in advance of the anticipated bypass or upset, consistent with the notice requirements contained in (a) through (d) of this section.

(3) The following public notice, properly, completed, shall be used in compliance with (1) and (2) of this section.

PUBLIC NOTICE

On [date] the [Department or Company] [has begun to/will] discharge [bypass] sewage into [location/water body] from the [pumping station/sewer line].
The reason for this discharge is [state reason]. This discharge will continue until [date].

Standing or running water in these areas may contain contaminants or pollutants harmful to human health. As a result of such discharge, sewage is reaching the [water body]. The water quality of [impacted water body] will be tested by the Department of Planning and Natural Resources [DPNR]. This discharge may increase the bacteriological levels in the water at [water body]. The public is advised to refrain from using the waters at [water body] until the problem is corrected and the public health concern has been alleviated. This includes activities such as fishing and bathing.

For additional information please call [name and telephone number].

h. Other noncompliance. The Permittee shall report to the Regional Administrator and the Commissioner of DPNR of all instances of noncompliance not reported under subsections d, e,

and f at the time the monitoring report covering the period of noncompliance is submitted. The reports shall contain the information listed in paragraph (2) of subsection f., above.

I. Other information. Where the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Regional Administrator or the Commissioner of DPNR, it shall promptly submit such facts or information to the Regional Administrator and the Commissioner of DPNR.

13. Bypassing.

a. Bypass not violating limitations. The Permittee may allow any bypass to occur which does not cause effluent limitations to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subsections 13.b. and 13.c. below.

b. Notice

(1) Anticipated bypass. If the Permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass.

(2) Unanticipated bypass. The Permittee shall submit notice of an unanticipated bypass as required in subsection f. of section 12 above.

c. Prohibition of bypass.

(1) Bypass is prohibited and the Commissioner may take enforcement action against a Permittee for bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There was no feasible alternatives to the bypass, such as auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or maintenance; and

(c) The Permittee submitted notices as required under subsection 13.b.

14. Upset.

a. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based effluent limitations if the requirements of subsection b. are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

b. Conditions necessary for a demonstration of upset. A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the Permittee can identify the cause(s) of the upset;

- (2) The permitted facility was at the time being properly operated; and
- (3) The Permittee submitted notice of the upset as required in subsection f. of section 12 above; and
- (4) The Permittee complied with any remedial measures required under section 4 above (duty to mitigate).
- (5) Burden of proof. In any enforcement proceeding the Permittee seeking to establish the occurrence of an upset has the burden of proof.

15. Removed substances. Solids, sludges, filter backwash or other pollutants removed in the course of treatment or control of wastewaters and/or the treatment of intake waters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters. The following data shall be reported together with the monitoring data required in Part I, B.2.:

- a. The sources of the materials to be disposed of;
- b. The approximate volumes and weights;
- c. The method by which they were removed and transported; and
- d. Their final disposal locations.

16. Oil and hazardous substance liability. The imposition of responsibilities upon, or the institution of any legal action against the Permittee under section 311 of the Clean Water Act shall be in conformance with regulations promulgated pursuant to Section 311 to discharges from facilities with NPDES permits.

17. Recopener clause for toxic effluent limitations.

Notwithstanding any other condition of this permit, if any applicable toxic effluent standard or prohibition is promulgated under Section 301(b)(2)(C) and (d), 304(b)(2) and 307(a)(2) of the Clean Water Act and that effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant not limited in the permit, this permit shall be promptly modified or revoked and reissued to conform to that effluent standard or prohibition.

18. Availability of information.

a. NPDES permits, effluent data, and information required by NPDES application forms provided by the Commissioner under 40 CFR, Part 122.21 (including information submitted on the forms themselves and any attachments used to supply information required by the forms) shall be available for public inspection at the offices of the Regional Administrator and the Commissioner of DPNR.

b. In addition to the information set forth in subsection a. Any other information submitted to EPA in accordance with the conditions of this permit shall be made available to the public without further notice unless a claim of business confidentiality is asserted at the time of submission in accordance with the procedures in 40 CFR, Part 2 (Public Information).

c. If a claim of confidentiality is made for information other than that enumerated in subsection a., that information shall be treated in accordance with the